

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2006-1060-PWS-E TCEQ ID: RN101259075 CASE NO.: 30488

RESPONDENT NAME: D.W. SUBDIVISION_ WATER SUPPLY CORPORATION

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Approximately one mile northwest of the intersection of Farm-to-Market Road 1948 and Roberts Road, Washington County</p> <p>TYPE OF OPERATION: Public water system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 29, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney: Ms. Dinniah M. Chahin, Litigation Division, MC 175, (512) 239-0617 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p>TCEQ Enforcement Coordinator: Ms. Yuliya Dunaway, Water Enforcement Section, MC R-13, (210) 490-3096</p> <p>TCEQ Regional Contact: Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3001</p> <p>Respondent: Mr. Frankie Trojcek, President and Director, D.W. Subdivision_ Water Supply Corporation, 143 Azalea Street, Sugar Land, Texas 77478; Mr. Jorge Haro, Vice President and Director, D.W. Subdivision_ Water Supply Corporation, 1306 Riverview Circle, Houston, Texas 77077; and Ms. Linda Haro, Secretary and Director, D.W. Subdivision_ Water Supply Corporation, 1306 Riverview Circle, Houston, Texas 77077</p> <p>Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: April 1, 2006 and July 24, 2006</p> <p>Date of NOE Relating to this Case: May 12, 2006</p> <p>Background Facts: The case was referred to the Litigation Division on December 13, 2006. The EDP RP was filed on February 20, 2007 and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," the Respondent received notice of the EDP RP on February 26, 2007 and February 28, 2007, as evidenced by the signatures on the cards. The Respondent has failed to answer the EDP RP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent has not submitted payment for all outstanding fees.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to collect and submit routine monthly water samples for bacteriological analysis and failed to provide public notice for the months of May 2004 through March 2006 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d)]. Failed to pay past due public health service fees for Account No. 92390016 for fiscal years 2005 and 2006 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702]. 	<p>Total Assessed: \$12,765</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$12,765</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken: The Executive Director recognizes that the Facility was inactivated on July 21, 2006.</p> <p>Ordering Provisions: The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, submit payment for all outstanding fees, including any associated penalties and interest. Within 45 days, submit written notarized certification to demonstrate compliance with the above Ordering Provision.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	21-Jun-2006	Screening	25-Jul-2006	EPA Due	29-Aug-2005
	PCW	21-Jul-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	D.W. Subdivision Water Supply Corporation
Reg. Ent. Ref. No.	RN101259075
Facility/Site Region	9-Waco <input checked="" type="checkbox"/> Major/Minor Source Minor Source <input checked="" type="checkbox"/>

CASE INFORMATION			
Enf./Case ID No.	30488	No. of Violations	2
Docket No.	2006-1060-PWS-E	Order Type	Findings <input checked="" type="checkbox"/>
Media Program(s)	Public Water Supply <input checked="" type="checkbox"/>	Enf. Coordinator	Yuliya Dunaway
Multi-Media		EC's Team	Enforcement Team 2 <input checked="" type="checkbox"/>
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	122% Enhancement	Subtotals 2, 3, & 7	\$7,015
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Notes	Enhancement due to 24 prior NOV's for violations that are same or similar, and one NOV which is not same or similar.
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Culpability	No <input checked="" type="checkbox"/> 0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with a small x)

Notes	The Respondent does not meet the good faith criteria.
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Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$724
Approx. Cost of Compliance	\$360

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,765
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes	
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Final Penalty Amount	\$12,765
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,765
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral due to Findings Order.
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PAYABLE PENALTY	\$12,765
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Screening Date 25-Jul-2006

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PCW

Respondent D.W. Subdivision_ Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 30488

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101259075

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	24	120%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 122%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes Enhancement due to 24 prior NOVs for violations that are same or similar, and one NOV which is not same or similar.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 122%

Screening Date 25-Jul-2006

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Docket No. 2006-1060-PWS-E

PCW

Respondent D.W. Subdivision_ Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 30488

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101259075

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number

1

Primary Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A)

Secondary Rule Cite(s)

Tex. Health & Safety Code § 341.033(d)

Violation Description

Failure to collect and submit routine monthly water samples for bacteriological analysis, and failure to provide public notice for the months of May 2004 through March 2006.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

>> Programmatic Matrix

Falsification				Percent
	Major	Moderate	Minor	
Matrix Notes	Failure to collect samples may result in undetected contaminated water being distributed to the public resulting in illness.			

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 23

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,750

Twenty-three monthly events are recommended based on the months of May 2004 through March 2006, for which bacteriological samples were not taken.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$724

Violation Final Penalty Total \$12,765

This violation Final Assessed Penalty (adjusted for limits) \$12,765

Economic Benefit Worksheet

Respondent D.W. Subdivision_ Water Supply Corporation

Case ID No. 30488

Reg. Ent. Reference No. RN101259075

Media [Statute] Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description	No commas or \$						

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$360	01-May-2004	31-Mar-2006	1.9	\$34	\$689	\$724
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost of routine sampling and to provide public notice. Date required is the first violation month. Final date is the last violation month.

Approx. Cost of Compliance **\$360****TOTAL** **\$724**

Screening Date 25-Jul-2006

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PCW

Respondent D.W. Subdivision_ Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 30488

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101259075

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.51(a)(3)

Secondary Rule Cite(s) Tex. Water Code § 5.702

Violation Description Failure to pay past due public health service fees for Account No. 92390016 for fiscal years 2005 and 2006.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
Matrix Notes				

Adjustment -\$1,000

Base Penalty Subtotal \$0

Violation Events

Number of Violation Events

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$0

No penalty is recommended because penalty and interest will be assessed at the next billing period.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent D.W. Subdivision_ Water Supply Corporation

Case ID No. 30488

Reg. Ent. Reference No. RN101259075

Media [Statute] Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description	No commas or \$						

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

No economic benefit will be calculated for this violation.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$0****TOTAL** **\$0**

Compliance History

Customer/Respondent/Owner-Operator:	CN600691950	D W Subdivision Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101259075	D W SUBDIVISION WSC	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		2390016
Location:	ONE MILE NORTHWEST OF THE INTERSECTION FARM-TO -MARKET ROAD 1948 AND ROBERTS ROAD WASHINGTON COUNTY			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	July 21, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 21, 2001 to July 21, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Kent Heath Phone: (512) 239-4575

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur?

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 04/01/2005 (466982)
- 2 08/27/2004 (466619)
- 3 10/03/2005 (467297)
- 4 09/30/2005 (400143)
- 5 12/28/2004 (466906)
- 6 12/08/2004 (466704)
- 7 03/03/2005 (466974)
- 8 08/25/2005 (467258)
- 9 12/21/2005 (467326)
- 10 10/31/2005 (467311)
- 11 04/28/2006 (467476)
- 12 03/22/2006 (467444)
- 13 01/28/2005 (466915)
- 14 05/31/2005 (467167)
- 15 11/08/2001 (147361)
- 16 06/13/2006 (481902)
- 17 06/27/2005 (467201)
- 18 07/29/2004 (466585)
- 19 05/02/2005 (467152)
- 20 11/01/2004 (466690)
- 21 12/01/2005 (467325)
- 22 10/01/2004 (466637)

23 01/25/2006 (467328)
24 02/23/2006 (467378)
25 07/02/2004 (461869)
26 07/27/2005 (467247)
27 01/05/2006 (450924)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- 1 Date: 10/03/2005 (467297)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 08/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 08/2005.
- 2 Date: 01/28/2005 (466915)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 12/2004.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 12/2004.
- 3 Date: 04/28/2006 (467476)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 03/2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 03/2006.
- 4 Date: 08/29/2005 (400143)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free or 0.5 mg/L total chlorine as per agency regulations.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
Description: Failure to provide water system records that needed to be reviewed at the time of the investigation.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to provide an intruder-resistant fence that is locked when unattended in order to protect the well and pressure tanks.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)[G]
30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failure to design and maintain a water distribution system to provide at all times a minimum pressure of 35 pounds per square inch (psi) at flow rates of at least 1.5 gallons per minute at each service outlet or connection.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)
Description: Failure to post a legible sign at the water plant.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
Description: Failure to maintain distribution system lines, water storage and pressure maintenance facilities, and related appurtenances in a watertight condition and be free of excessive solids.
- 5 Date: 12/08/2004 (466704)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 10/2004.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 10/2004.

6 Date: 01/25/2006 (467328)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 12/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 12/2005.

7 Date: 07/27/2005 (467247)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 06/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 06/2005.

8 Date: 12/28/2004 (466906)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 11/2004.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 11/2004.

9 Date: 12/01/2005 (467325)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 10/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 10/2005.

10 Date: 05/02/2005 (467152)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 03/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 03/2005.

11 Date: 02/23/2006 (467378)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 01/2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 01/2006.

12 Date: 04/01/2005 (466982)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 02/2005.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 02/2005.

13 Date: 08/27/2004 (466619)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 07/2004.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 07/2004.

14 Date: 03/22/2006 (467444)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 02/2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 02/2006.

15 Date: 05/31/2005 (467167)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 04/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 04/2005.

16 Date: 08/25/2005 (467258)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 07/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 07/2005.

17 Date: 11/01/2004 (466690)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 09/2004.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 09/2004.

18 Date: 11/08/2001 (147361)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.117[G]
Description: Failure to conduct annual reduced tap monitoring sampling for l/c.

19 Date: 10/31/2005 (467311)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 09/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 09/2005.

20 Date: 12/21/2005 (467326)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 11/2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to post a PN for not collecting any routine monitoring samples in 11/2005.

21 Date: 06/27/2005 (467201)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 05/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 05/2005.

22 Date: 07/02/2004 (461869)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 05/2004.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 05/2004.

23 Date: 03/03/2005 (466974)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 01/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 01/2005.

24 Date: 07/29/2004 (466585)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 06/2004.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 06/2004.

25 Date: 10/01/2004 (466637)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring samples in 08/2004.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 08/2004.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
D.W. SUBDIVISION_ WATER
SUPPLY CORPORATION,
RN101259075**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2006-1060-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is D.W. Subdivision_ Water Supply Corporation ("D.W. Subdivision").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. At the time of the violations, D.W. Subdivision owned and operated a public water system located approximately one mile northwest of the intersection of Farm-to-Market Road 1948 and Roberts Road, Washington County, Texas (the "Facility").
2. At the time of the violations, the Facility had ten service connections; served at least 25 people per day for at least 60 days per year; and provided water for human consumption.
3. During a record review conducted on April 1, 2006, a TCEQ Public Water Supply Division investigator documented that D.W. Subdivision failed to collect and submit routine monthly water samples for bacteriological analysis and failed to provide public notice for the months of May 2004 through March 2006.
4. During a record review conducted on July 24, 2006, a TCEQ Enforcement Division staff member documented that D.W. Subdivision failed to pay past due public health service fees for Account No. 92390016 for fiscal years 2005 and 2006.
5. D.W. Subdivision received notice of the violations in paragraph 3 on or about May 17, 2006.

6. The Executive Director recognizes that D.W. Subdivision was inactivated on July 21, 2006.
7. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of D.W. Subdivision_ Water Supply Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on February 20, 2007.
8. By letter dated February 20, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served D.W. Subdivision with notice of the EDPRP. According to the return receipt "green cards", D.W. Subdivision received notice of the EDPRP on February 26, 2007 and February 28, 2007, as evidenced by the signatures on the cards.
9. More than 20 days have elapsed since D.W. Subdivision received notice of the EDPRP, provided by the Executive Director. D.W. Subdivision failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, D.W. Subdivision is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, D.W. Subdivision failed to collect and submit routine monthly water samples for bacteriological analysis and failed to provide public notice for the months of May 2004 through March 2006, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 4, D.W. Subdivision failed to pay past due public health service fees for Account No. 92390016 for fiscal years 2005 and 2006, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
4. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director has timely served D.W. Subdivision with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 9, D.W. Subdivision has failed to file a timely answer to the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN.

CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against D.W. Subdivision and assess the penalty recommended by the Executive Director.

6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against D.W. Subdivision for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of twelve thousand seven hundred sixty-five dollars (\$12,765.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b).
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. D.W. Subdivision is assessed an administrative penalty in the amount of twelve thousand seven hundred sixty-five dollars (\$12,765.00) for violations of TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the TCEQ. The payment of this administrative penalty and D.W. Subdivision's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: D.W. Subdivision_ Water Supply Corporation; Docket No. 2006-1060-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. D.W. Subdivision shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, D.W. Subdivision shall submit payment for all outstanding fees, including any associated penalties and interest with the notation "D.W. Subdivision_ Water Supply Corporation, TCEQ Account No. 92390016" to:

Financial Administration Division, Revenues Section
Attention Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- b. Within 45 days after the effective date of this Order, D.W. Subdivision shall submit written certification of compliance with Ordering Provision 2.a., as described below:

The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Frank Burleson, Water Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon D.W. Subdivision. D.W. Subdivision is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by D.W. Subdivision shall be made in writing to the Executive Director. Extensions are not effective until D.W. Subdivision receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to D.W. Subdivision if the Executive Director determines that D.W. Subdivision has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF DINNIAH M. CHAHIN

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Dinniah M. Chahin. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of D.W. Subdivision_ Water Supply Corporation" (the "EDPRP") with the Office of the Chief Clerk on February 20, 2007.

I sent the EDPRP to D.W. Subdivision at its last known addresses on February 20, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards", D.W. Subdivision received notice of the EDPRP on February 26, 2007 and February 28, 2007, as evidenced by the signatures on the cards.

More than 20 days have elapsed since D.W. Subdivision received notice of the EDPRP. D.W. Subdivision failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference."



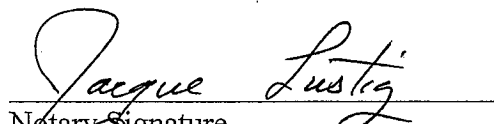
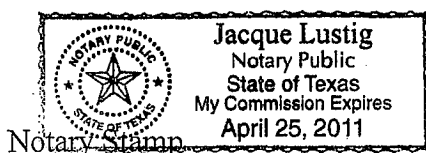
Dinniah M. Chahin

Attorney

Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Dinniah M. Chahin, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 2nd day of December, A.D., 2008.



Notary Signature